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Supreme Court, U.S.
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No: _____

In The

Supreme Court of the United States

Quintin LaSalle Milton

Petitioner(s)

vs.

Jackson Public Schools

Respondents

On Petition For Writ Of Certiorari
To The United States Court of Appeals
For The Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

Quintin LaSalle Milton
P. O. Box 661
Tougaloo, MS 39174
(601) 352-6231

7/07

STATEMENT OF ISSUES PRESENTED

Issues relating to the wrongful dismissal claims:

A. Whether Jackson Public Schools (JPS) extended justice and fairness/due process to Milton, a United States citizens that has Constitutional rights even as an at-will employee.

1. Milton was deprived of due process during the entire case.
2. When Milton finally met with Nelson (attorney) and Mott (assistant superintendent), they were more concerned with his previous employments, not the case.
3. Milton was never told the meritorious evidence against him. This case has ruined his professional future/reputation.
4. The Board President (at that time), Doris Bridgeman told Milton that the Board was only listening to him "out of courtesy" and he only had 5 minutes to defend himself.
5. Bridgeman did not respond to Milton's letter (October 24, 1997) asking her to be fair and to hear his side of the story.
6. Milton was not allowed to explain in writing as his accusers, Hull and Graves. In addition, a similar case—sexual harassment/improper conduct (JPS), Sabrina Ervin and Exilius Louis (at-will employees) was allowed to explain in writing (EVIDENCE:Copy from JPS's files).
7. The Hearing Committee for the case against Milton was comprised of Central Office/JPS employees ONLY.
8. Milton was denied legal representation and was told he could not defend himself in the presence of his accusers, Dorothy

Hull and Ruth Graves, in the Step 3 Process in JPS.

9. Everything Dr. Milton (ex-wife) stated was heresay but Graves and Hull's statements were meritorious—WHY?.
10. The statements from Louis and Ervin were mailed to Milton from JPS's file. The information is valid.
11. The verdict of the District Court stated that "defendant allegedly refused plaintiff's written statement, saying it "[didn't] need it."

B. Whether Jackson Public Schools (JPS) discriminate toward Milton, an at-will employee.

1. Louis/Ervin's (at-will employees) case of sexual harassment/improper conduct/unprofessionalism case was thoroughly investigated the next day and Milton's case was investigated after a week.
2. Milton was first told that he was fired for sexual harassment. Later it was changed to unprofessionalism/improper conduct.
3. The following are parts of the written statement from Louis (EVIDENCE: Copy from JPS's Files): "While I sat next to her, she was touching my legs" and "While we talked, our head getting closer and closer we kissed each other" and "We got in the elevator and went down. We hugged each other and kiss good bye" are appropriate and professional on the job. Louis is a Haitian/single and Ervin is an American/married. Louis, a Haitian, remained at the Career Development Center (CDC) after the case.
4. The following are parts of the written statement from Ervin's written statement,

(EVIDENCE: Copy from JPS's Files) "He sat down beside me, assisting in what he wanted me to type. While I was typing this information, this employee asked me would I come up to Gibson's room on my lunch break because he wanted to talk" and at one point in the conversation, this employee began to approach me in a negative way by stating that it was something about me that brought a feeling upon him" and "He touched me on my legs, and I pushed him away and told him I was going back downstairs" and "Upon leaving the room, Louis grabbed my arm, then he grabbed me around my waist, and held me with force asking for a kiss, and I asked him to let me go" and "I started toward the lounge and he grabbed my arm and pulled me back and I asked him what did he want, and he continued to tell me he wanted a kiss from me" and "I began to head toward the lounge, he grabbed my waist and held me again with force and tried to get a kiss from me, when he saw I couldn't get loose from him, he kissed me on my mouth and let me go and stood back in the corner and said thank you" are appropriate and professional on the job? Ervin remained at the CDC after the case.

5. Hull and Graves were not given a deposition. Milton was asked to give one.

C. Whether Jackson Public Schools (JPS) do not have to adhere to federal regulations.

1. JPS do not post notices to employees advising them of their rights under the laws that EEOC enforces and their right to be free from retaliation?

2. JPS do not show due process to some at-will employees.
3. JPS discriminate toward some at-will employees.
4. JPS do not distribute to their employees the official grievance procedure for lodging sexual harassment complaints or a formal anti-harassment policy, as required by federal regulations.

D. Whether Jackson Public Schools (JPS) are allowed to do intentional malicious acts toward employees.

1. The attorney for JPS (Nelson) admitted in the second settlement meeting that he was treated unjustly and that he would win the case in court and that the District was not worrying about him.
2. The attorney for JPS (Nelson) told Milton that he could sue for one million or two million dollars. He would not hurt the District because they would appeal the case for so long that his child would see nothing.
3. Mott (former principal of the CDC) came to the CDC where Milton's ex-wife (Dr. Alice Milton) worked to intimidate her the next day after Milton was fired?
4. Mott's secretary (Dorothy Lee) told Dr. Milton a story concerning Hull and changed the story once she (Dr. Milton) let her know that Milton had told her the truth.
5. The letter from Elijah Buckley (principal of Capital City) dated August 19, 1997, was not on official letterhead nor signed. Anyone could have typed it.
6. Milton was hired for an ISS position and later changed to limited service.

7. Buckley remained in his position.
8. Donna Downing (Personnel Office—read from files) remained in her position.
9. Hull was moved.
10. Graves was moved.
11. Mott was moved.
12. Lee was moved.
13. Verne Harris (former principal at Hardy Middle School) was moved.
14. Bridgeman (Board President) stepped down.
15. After the case started, Louis (CDC) was released.
16. Twenty-five (25) pieces of evidence shown in favor of Milton and overlooked.

E. Whether Jackson Public Schools (JPS) can release confidential information without the individual's consent.

1. Donna Downing (Central Office/JPS) was allowed to read from Milton's personnel files in the Employment Security hearing without his permission.
2. The office workers (Capital City/Milton ex employer) of JPS were allowed to discuss confidential matters over the phone to the public. One office worker told the caller that Milton was terminated for sexual harassment.
3. Dorothy Lee divulged information to Dr. Milton

F. Whether Jackson Public Schools (JPS) looked at the evidence and thoroughly investigate the case.

1. A business card (EVIDENCE) was given to Milton by Graves (the second employee who allegedly reported sexual harassment) in the cafeteria, inviting him to her

church/home, was overlooked throughout the case and wasn't in her written statement.

2. Hull's written statement (EVIDENCE: Copy from JPS's Files) stated that the day of the incident was Friday, August 15, 1997. The actual date told to Milton was Tuesday, August 12, 1997. Buckley met with him concerning the case on Wednesday, August 13, 1997, at 7:40 a.m. in his office. Milton's ex-wife is a witness concerning August 12, 1997.
3. Hull stated that Milton was on his way to sign out. Milton always signed in and out at the same time (3:45 p.m.) so he could be on time at Bailey Magnet School for ball practice—he was assistant coach. Milton has a letter (EVIDENCE) from Rouser, head coach that states that he was never late except for the day that Buckley called him in to dismiss him.
4. Holmes, assistant principal/Capital City and Green/security/Capital City both were witnesses in Buckley's office with Milton. They were not questioned.
5. Graves claimed that she was in the cafeteria first. According to the lunch schedule, Milton, Room Number 202 reported from 10:45 to 11:00 and Graves, Room Number 204 reported from 10:51 to 11:06.
6. There were no statements from Peters (203) and Perkins (205). According to the schedule, they were in the cafeteria at the time of the incident. The two teachers should have seen the incident.

G. Whether Jackson Public Schools (JPS) can slander names of employees and in essence commit libel acts.

1. In Hull's written statement (EVIDENCE), she wrote, "I spoke with a friend and asked him to say something to him but I changed my mind and went to the principal, Buckley."
2. Mott was able to stand in front of the entire faculty, representatives, and guests of the CDC's breakfast and make this statement: "All of the BAD people were terminated at Capital City Alternative." Milton was the only person at that time. Dr. Milton was present.
3. Office workers were allowed to discuss Milton to callers/workers/students.
4. An instructor (Hardy) talked to Milton's nephew concerning him.
5. Lee, (Mott's secretary) told Dr. Milton (ex-wife) that Milton was crazy.

H. Whether Jackson Public Schools (JPS) can be allowed to participate in obstruction of justice.

1. There was a first settlement meeting in which Milton was offered $500 and his name cleared. Judge Nichols (District Court) was present.
2. Between the second settlement, there was a conversation between Nelson and Milton over the phone concerning $200,000.
3. After the second settlement meeting, Attorney Ragland (temporary attorney for Milton) advised Milton to take $15,000 and his name would be cleared.
4. JPS never showed evidence that Milton was guilty of any of the charges brought against him.
5. Ragland talked to the referee over the Employment Security hearing. The referee told Ragland that he believed Milton, BUT, he didn't have an attorney.

6. Suddenly, Ragland told Milton that he could no longer advise him. He did not answer any more calls from Milton.
7. Nelson wanted to know from Milton in the settlement meeting in January 1999, who was helping him with the case.
8. Milton was always being told that "If he had an attorney".
9. The Board President (JPS) and the President of the Jackson Federation of Teachers Bergie Jones) talked all of the time—claimed Jones.
10. Milton was not given a jury/oral argument at the Appeal level in Louisiana as requested.
11. Jackson Federation of Teachers (Doris Powe, Assistant President) informed Milton 11:51 p.m. (Almost midnight) that they could not represent him for the following day for the case. Jones and the attorney had to go out of town.
12. The Superintendent of JPS (Jayne Sargent) wanted to know the name of Milton's witness in the Board meeting.
13. Nelson (JPS) always asked questions concerning Dr. Milton (ex-wife).
14. Nelson asked for names throughout the case.
15. The attorney for JFT could never remember anything.
16. Jones (JFT), responded that she and Bridgeman (JPS) talked all of the time.
17. Jones told Dr. Milton (ex-wife) that she thought the case was funny.
18. Ragland kept telling Milton that he had plenty of time to file everything.
19. Nelson (JPS) and Trey Jones (District Court) worked together the same day of the pre-trial that was postponed.

20. Gwen Bryant (District Court) never rescheduled Milton.
21. Milton's case was dismissed without his knowledge.
22. The District Court/Jackson, Mississippi overlooked all evidence presented.
23. The U. S. Court of Appeals for the Fifth Court overlooked all evidence presented.
24. Nelson set up a settlement meeting and asked Milton for copies of his court ordered child support payment, wages at Capital City, doctor's statement(s), medications, etc.

I. Whether Jackson Public Schools (JPS) can be allowed to not adhere to their "Employee Conduct and Code of Ethics".

1. Employees must maintain just and courteous professional relationships with pupils, parents, staff members, and others.
2. The use of pressure on school officials for appointment or promotion is unethical.
3. Employees should avoid using their positions for personal gain through political, social, religious, economic, or other influence.
4. All responsibilities will be fulfilled with honesty and integrity.
5. Directing any criticism of other staff members is to be made directly to the particular school administrator who has the administrative responsibility for improving the situation and then to the superintendent, if necessary.
6. Proper care and use of confidential information and student records.
7. Support the principle of due process.

8. Obey local, state, and federal laws and regulations in the performance of their job duties.
9. The sharing of information should only serve to assist, rectify, or resolve a situation and should never be downgraded to idle gossip or negative commentary to the media, or others within the community.

LIST OF PARTIES

Petitioners:

1. Mr. Quintin L. Milton, Sr.
2. Dr. Alice T. Milton, Witness/Ex-wife **(Former Teacher/Career Development Center)**
3. Ms. Tabitha Milton, Witness
4. Mr. Rodney Dillamar, Witness

Respondents:

1. Dr. Jayne Sargent, Superintendent (JPS)
2. Dr. Willie J. Mott, Area Superintendent (JPS) **(Former Principal/Career Development Center)**
3. Mrs. Doris Bridgeman (Board President)
4. Dr. Carol R. Adams, Human Res. Director (JPS)
5. Mrs. Donna Downing, Personnel Office (JPS)
6. Mr. Elijah Buckley, Principal (Capital City) (JPS)
7. Mrs. Dorothy Hull, Accuser (JPS)
8. Ms. Ruth Graves, Accuser (JPS)
9. Attorney JoAnne Nelson (JPS)
10. Ms. Bernice Catchings (JPS)
11. Mrs. Dorothy Lee, Mott's Secretary (JPS)
12. Mr. Brian Anderson (JPS)
13. Mr. Verne Harris (JPS)

Other Parties:

1. Mr. Joe Ragland (Waller & Waller)
2. Mrs. Doris Powe (Jackson Federation of Teachers [JFT] Vice President)
3. Ms. Bergie Jones (JFT President)
4. Mr. Roger Dolittle (JFT Attorney)
5. Teacher Peters (Cafeteria)
6. Teacher Perkins (Cafeteria)
7. Ms. Gwen Bryant (District Court)
8. Mr. Trey Jones (District Court)
9. Assistant Principal Holmes (JPS-Capital City)
10. Security Guard Green (JPS-Capital City)

STATEMENT UNDER RULE 28

Petitioner respectfully request oral argument of this cause. Petitioner believes that oral argument will assist the Court in arriving at a proper resolution of the issues in this case.

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OPINIONS AND ORDERS BELOW

The June 8, 2000 order of the United States Court of Appeals for the Fifth Circuit, overlooking all evidence of lack of due process; violation of civil rights; slandering; libel; discrimination; invasion of privacy; intentional infliction of emotional distress; and favoring Jackson Public Schools is reproduced at Appendix (hereinafter "App.") at page 1.The defendant's motion to strike plaintiff's response and amended response and opposing affidavits to defendant's motion for summary judgment is reproduced in App. at page 3. The unreported evidence from August 12, 1997, to Jackson Public Schools; District Court/Jackson, Mississippi; and the United States Court of Appeals for the Fifth Circuit is reproduced in App. at page 5. The petitioner has copies of unreported evidence for this case that was presented to Jackson Public Schools, the District Court and The United State Court of Appeals respectively.

JURISDICTION

Subject Matter Jurisdiction—The basis for subject matter jurisdiction in the District Court was a violation of civil rights in discrimination and privacy, slander, libel, intentional maliciousness interference, violation of procedural and substantive due process, intentional infliction of mental distress, and obstruction of justice.

Following the United States Court of Appeals in the Fifth Circuit Order on June 8, 2000, Petitioner filed a lawsuit against Respondent pursuant to the U.S.C.: § 1681(a); U.S.C.: § 1981a; U.S.C.: § 1981b; 42 U.S.C.: § 1983; U.S.C.: § 1985 (1); U.S.C.: § 1985 (2); U.S.C.: § 1985 (3); U.S.C.: § 2000a; U.S.C.: § 2000d; U.S.C.: § 2000e-2.

STATUTORY PROVISIONS INVOLVED

FEDERAL STATUES—20 U.S.C.; 42 U.S.C, 1983, 1991; U.S.C: § 1985 (3); U.S.C: § 1985 (1); U.S.C: § 1985 (2); U.S.C: § 1981b; U.S.C: § 1981a; U.S.C: § 2000a; U.S.C: § 2000d; 20 U. S. C. §§1681(a); and U.S.C: §

2000e-2. CONSTITUTION— Amendment V (1791); Amendment VI (1791); and Amendment XIV (1868). STATE STATUES—The Constitution of the State of Mississippi Preamble (Adopted November 1, A.D., 1890); Mississippi Article 3, Bill of Rights—Section 8, Section 13, Section 14, Section 24, Section 25, and Section 32 are reproduced in Appendix 20. DISTRICT STATUE—Jackson Public School District's Employee Conduct and Code of Ethics are reproduced in Appendix 16.

STATEMENT OF FACTS AND COURSE OF PROCEEDINGS

A. STATEMENT OF THE UNDERLYING FACTS

The case, began on July 31, 1997, when Milton was told by Verne Harris, former principal of Hardy Middle School that he was not going to recommend him to come back to Hardy because Harris stated, "I was told that you pushed a student (heresay)." Milton informed him that he did not know the student he was referring to. There is no official record of this in Milton's personnel file. Milton went to Rowan Middle School to apply for a position. The principal (Karl Twyner) told him that he was going to recommend him for an emergency certificate to teach HPE (Health and Physical Education) in JPS. Later Milton was informed by the principal at Rowan that he could not be hired and stated, the principal (Verne Harris) at Hardy did not like him *Hett v. Ploetz* 20 Wis. 2d 55, 121 N.W. 2d 270 (1963); *U.S.C.: § 1981a; U.S.C.: § 1985 (1); U.S.C.: § 1985 (3); U.S.C.: § 2000e-2.* Milton then went to Capital City for an interview with Elijah Buckley. Milton discussed the situation at Hardy with Buckley. Buckley told Milton that he did not have a problem with that. Later, Buckley called Milton's brother, Cedric, to confirm that he was recommending him for the ISS (In-School Suspension) position in JPS.

Monday, August 4, 1997, after convocation, Milton was informed by Buckley that he wanted him to take the limited service position for the HPE class. Milton agreed because Buckley told him that he would give him a contract after taking the Praxis (teachers' certifying test) in January; but until then, the job was his for the school year. This was an oral agreement (two parties) between Buckley and Milton. Buckley did not tell Milton at any time that he could be terminated at freewill. Everything changed after the paperwork was submitted to Willie J. Mott, Assistant Superintendent, Buckley's supervisor.

SLANDER/LIBEL—Monday and Tuesday, August 11-12, 1997, were routine days. Milton spoke to Mott Tuesday afternoon. Wednesday, August 13, 1997, Buckley met with Milton at 7:40 a.m. and questioned him concerning Hull. Buckley disclosed to Milton that Hull, a social studies teacher, stated that he called her a "fox" after school on August 12, 1997 (around 3:30 p.m.), and that this was sexual harassment. The truth is at 3:30 p.m. daily, Milton rushed to coach at Bailey Magnet School because he had to be there before 3:45 p.m., Monday through Friday (EVIDENCE: Letter). Milton told Buckley that he did not know Hull; therefore, Buckley described Hull. Nothing else was said to Milton until August 19, 1997.

Milton discussed the case with Dr. Alice Tyler Milton (former wife) that same day (August 13, 1997).

She gave him advice and requested that he not tell anyone that he had talked with her because at that time, she was working in JPS at the Career Development Center (CDC) and Mott was her former principal and her present principal's (Bennie Byrd) immediate supervisor. Milton respected her wishes.

Tuesday, August 19, 1997, Buckley called Milton into his office (a.m.) to ask him had he said anything to anybody about what happened. Milton, respecting Dr. Milton's wishes, told him no. He then told Milton to keep his mouth shut and not say a word. Before the meeting on the 19th, instructors in the building were approaching him asking him questions concerning the accusations—Milton told Buckley this. At 3:00 p.m., the same day, Buckley informed Milton that Graves, an English instructor, said he called her a "fox" in the cafeteria on Friday, August 15, 1997, and tried to touch her leg. The witnesses in Buckley's office at that time were Holmes (assistant principal) and Green (security). Holmes nor Green were asked for a statement. Milton knew Graves because she was left by Buckley on the first day of school because she did not report back to the bus on time. Milton immediately told Buckley that he did not call Graves a "fox" nor did he rub her leg. He told Buckley that on August 15, 1997, Graves came and sat at his table, because he was in the cafeteria first (EVIDENCE: Schedule), conversing with him. Graves told him that she was the English teacher and invited

him to her church in Canton, Mississippi, if he needed prayer. Graves also told Milton that, "A lot of your relatives attend my church in Canton." At that point, Graves gave Milton a business card (EVIDENCE: Actual Card). The address on the card was to Grave's home. Milton did not know that at that time. Milton left out of the cafeteria to return to class with his students. Instructors Peters and Perkins (EVIDENCE: Schedule) were in the cafeteria at that time. In addition, the security guard along with Milton's students were in the cafeteria. Milton's students heard the entire conversations. Graves was not in the cafeteria first because that was her planning period (EVIDENCE: Schedule). Graves admitted in the taped Employment Security hearing that she gave Milton the business card.

The letter from Hull (EVIDENCE: Copy from JPS's Files) was false also. Hull stated that Milton harassed her on August 15, 1997. The truth is Milton had never seen Hull before and the date Buckley confronted him concerning Hull was August 13, 1997 not August 15, 1999. Dr. Milton is Milton's witness (EVIDENCE: Affidavit from Dr. Milton). Milton did not walk with Hull in the same direction because he rushed daily to coach at Bailey Magnet School and could not be late (EVIDENCE: Letter from Coach); therefore, he signed in and out daily to save minutes. Hull's room is further down the hall than Milton (EVIDENCE: Drawing). Milton did not see or say anything to Hull.

Hull stated in her letter read at the taped Employment Security meeting that,"I spoke to a friend (EVIDENCE: Copy from JPS's Files). The Interrogatories (EVIDENCE) submitted answered the question concerning the friend. The friend, as stated in the document was Brian Anderson. Anderson never wrote a statement for the case. Dr. Milton wrote a notarized statement (EVIDENCE) in support for this case for the brief. Milton was informed that because he was at-will and had no rights, he could not write a statement in JPS. Milton wrote a statement (EVIDENCE: Milton unofficial affidavit for the records) for the brief so he could have it in the official records.

B. Nature of the Case, Course of Proceedings and Disposition below

Jackson Public School Violating Policy—The Code of Ethics for JPS (App. 16) were violated when: **(1)** Friday, August 22, 1997, when Milton's nephew, Michael, a student at CDC/Hardy Middle Schools, came to Dr. Milton and told her that a teacher at Hardy told him that Milton was terminated from Capital City for sexual harassment Michael came to her immediately after school on Friday, August 22, 1997, because of the lie. Harris's secretary conversed with individuals also concerning Milton. **(2)** A former close comrade of Milton informed a family member that called Capital City and the clerical worker told her that Milton was fired from Capital City for sexual harassment (slander/libel). **(3)**

Carol Adams, Director of Personnel reminded Milton in the JPS's Step 3 Process hearing that he could not have legal representation nor witnesses on his behalf *The Constitution of the United States*—Amendment VI (1791); *The Constitution of the United States*—Amendment XIV (1868). Adams did allow him to bring the Jackson Federation of Teachers (JFT) president, Bergie Jones, to the hearing, but told her that she could not say anything (EVIDENCE: Letter). **(4)** The jury in the Step 3 Process in JPS was bias. The jury was composed of all JPS's administrators at the Central Office on President Street (EVIDENCE). Milton was never able to confront his accusers in JPS. Adams repeatedly informed him during the Step 3 Process that he had no rights and this was why he could not bring legal representation nor witnesses—only certified employees could bring legal representation and witnesses. 2000a; U.S.C.: § 2000d; *The Constitution of the United States*—Amendment VI (1791); *The Constitution of the United States*—Amendment XIV (1868 This was also discrimination and a violation of his constitutional rights *Crump v. Board of Education of the Hickory Administrative School Unit* 326 N.C. 603, 392 S.E. 2d 579 (1990); *Hett v. Ploetz* 20 Wis. 2d 55, 121 N.W. 2d 270 (1963);*U.S.C.: § 1985 (1); U.S.C.: § 1985 (2); and U.S.C.: § 1985 (3)* his reputation was on the line. He repeatedly told JPS that he did not do what Hull and

Graves accused him of doing. **(5)** Mott and Nelson questioned Milton, Nelson had little to say and Mott was only concerned with where he worked in the past. In addition, Milton was told not to set foot on JPS's premises again *U.S.C.: § 1981a; U.S.C.: § 1985 (1) ; U.S.C.: § 1985 (2); U.S.C.: § 1985 (3); U.S.C.: § 2000a; U.S.C.: § 2000d; The Constitution of the United States*—Amendment XIV (1868). **(6)** Milton tried to plea his case in the Step 4 Process. Milton was told that he only had five (5) minutes to defend his case and that the Board was only giving him the five minutes only "OUT OF COURTESY from Doris Bridgeman. An unbiased, impartial decision maker is essential to due process. *Crump v. Board of Education of the Hickory Administrative School Unit* 326 N.C. 603, 392 S.E. 2d 579 (1990); *Hett v. Ploetz* 20 Wis. 2d 55, 121 N.W. 2d 270 (1963); *U.S.C.: § 1981a; U.S.C.: § 1985 (1) ; U.S.C.: § 1985 (2); U.S.C.: § 1985 (3); U.S.C.: § 2000a ; U.S.C.: § 2000d; U.S.C.: § 2000e-2; The Constitution of the United States*—Amendment VI (1791); *The Constitution of the United States*—Amendment XIV (1868)." Milton was stop immediately on the second of five minutes. The JPS's Board President, Bridgeman, informed Milton that she would be getting in contact with him in 48 hours. Milton received the Step 4 Form in 96 hours that stated that the principal's decision was upheld and Bridgeman's stamped her signature (EVIDENCE: A

Copy). After receiving her verdict, Milton wrote Bridgeman on October 24, 1997 (EVIDENCE: Copy), Bridgeman did not respond. *Crump v. Board of Education of the Hickory Administrative School Unit* 326 N.C. 603, 392 S.E. 2d 579 (1990). **(7)** The day after Milton was terminated, Mott came to the Career Development Center where Dr. Milton worked, at that time, and asked her, with a smirk on his (Mott) face, "Is there anything you want to talk to me about yesterday? *U.S.C.: § 1981a; U.S.C.: § 1985 (1); U.S.C.: § 1985 (2); U.S.C.: § 1985 (3); U.S.C.: § 2000e-2*; " Dr. Milton replied "No!" and went upstairs to her classroom. In addition, two (EVIDENCE) of her co-workers came to her classroom. The first co-worker's response was that Dr. Milton made too much money and she needed to stop getting so much money from Milton for child support. Amy Berry made a statement, with a smirk on her face, "Alice doesn't get that money any more." Berry then tried to clean up what she said. Berry is Mott's good friend and is also a good friend of Dorothy Lee, Mott's secretary. **(8)** Lee told Dr. Milton (EVIDENCE) one day after she called her to confirm that she had a room to herself in Hattiesburg, Mississippi for a Tech Prep meeting as she was beginning to hang up the phone, "You have a crazy ex-husband." Dr. Milton replied, "What do you mean?" Lee replied, "You know that your ex got fired for sexual harassment. He (Milton) pushed Hull to the wall and was holding her hand tightly so she

couldn't get loose." Dr. Milton replied, "Quintin did not tell me this, but what he told me, I believe and you all know that Quintin did not do this. (At this point, Dr. Milton had already made up her mind to leave for a peace of mind and did not care if the administrators knew) Dr. Milton stated, "Lee, that doesn't make sense. Did anyone check her wrist and why did she not scream? He showed me the card that Graves gave him and he told me that he did not know Hull. Also, if Quintin did this to Hull, why didn't someone hear her. At that time of the day, Quintin rushes to practice at Bailey (EVIDENCE). I know Quintin, when it comes to sports, nothing else matters. Also, I have been knowing Quintin for more than 15 years. I have never heard him refer to a woman as a "fox," this is not Quintin's terminology. They used the word fox in the olden days with those old women. Someone is trying to set him up. You should know more than anyone how women are quickly to say sexual harassment. For example, the case with Ervin (EVIDENCE) and Louis (EVIDENCE) those women probably got mad when Quintin did not pay them any attention." Lee then replied, "He did not try to defend himself, why didn't he say anything. You know that Hull's husband is crazy (Dr. Milton does not know Hull—she met her in the employment hearing). He might do anything." Dr. Milton replied, "Quintin told me that he did tell you all this. How could he defend himself? —You all never gave him a chance." This case

seems like a set up to me." Lee did not say anything else after that statement, but the story changed *Hett v. Ploetz* 20 Wis. 2d 55, 121 N.W. 2d 270 (1963); *U.S.C.: § 1981a; U.S.C.: § 1985 (1); 42 U.S.C.: § 1983; U.S.C.: § 1985 (2); U.S.C.: § 1985 (3); U.S.C.: § 2000e-2.* **(9)** Mott was invited to the October CDC's breakfast with the representatives from Valley Gas (CDC's Adopters). He made the following statement to everyone, "You know what people, a lot of people think that the children at the Capital City are bad, but it is not the children, it is the teachers. Therefore, I got rid of all of the "bad" people at Capital City *Hett v. Ploetz* 20 Wis. 2d 55, 121 N.W. 2d 270 (1963); *U.S.C.: § 1981a; U.S.C.: § 1985 (1); U.S.C.: § 1985 (2); U.S.C.: § 1985 (3); 2000e-2*; *The Constitution of the United States*—Amendment XIV (1868). The building is so much better now." This was embarrassing to Dr. Milton because she knew Mott was talking about Milton. He was the only one that was terminated at that time. After Mott made that last statement, he looked directly at her (Dr. Milton). After the meeting, two co-workers came to Dr. Milton and told her that they knew Mott was talking about Quintin. This was humiliating to Dr. Milton. **(10)** Dr. Milton's evaluation was affected by low marks (EVIDENCE). Her evaluation was changed when Byrd, principal, was told she was going to get a lawyer and sue. The evaluation was changed instantly. These actions and others led Dr. Milton to resign in April 1998 and move to Alabama for

a peaceful mind *Carey v. Piphus,* 435 U. S. 256-57 (1978); *U.S.C.: § 1981b; U.S.C.: § 1985 (1); U.S.C.: § 1985 (2); U.S.C.: § 1985 (3); The Constitution of the United States*—Amendment XIV (1868).

Obstruction of Justice—Obstruction of Justice is prevalent in this case. This is why Dr. Milton has done all of the typing, researching, mailing, and some of the funding for the case. She wants to see justice as well. Milton had a paid attorney, Joe Ragland of Waller and Waller—Dr. Milton conversed and typed everything still. Attorney Ragland worked with Nelson in the past and talked to Nelson concerning the case. Ragland also talked to the referee that was over the Employment Security hearing. The referee told Ragland that Milton would have received his monies if he had legal representation and that he believed Milton during the hearing. Milton had all of the facts. Ragland eventually told Milton that he could not help him anymore and did not accept any more of his or Dr. Milton's calls, *U.S.C.: § 1985 (2);* Dr. Milton's last phone call to Waller and Waller resulted in the clerical person disconnecting (the week of May 10, 1999) while on hold (which has never happened before—Ragland had her number in Alabama but never called back). She did not call back. It was obvious Ragland was pressured to get off of the case.

Second, there was a first settlement meeting in which Milton was offered $500 and his name would be cleared. District Court Judge Nichols was present.

Afterward, there was a conversation between Nelson and Milton over the phone concerning $200,000 before the second meeting. During the second settlement meeting, Nelson wanted to see copies of Milton's copies of his court ordered child support payments, wages at Capital City, doctor's statement, and the medication taken. She (Nelson) asked him questions about his personal life, Dr. Milton, where she lived, etc. After the second meeting Ragland offered Milton $15,000 and his name cleared.

Third, Nelson asked Milton in the settlement meeting before the deposition in January "Who was helping him with this case. So far, everyone that has been in contact with this case tells Milton that they can no longer help me.

Fourth, JFT's assistant president, Doris Powe, informed Milton almost midnight (11:51 p.m.), Sunday, October 19, 1997, *U.S.C.: § 1985 (2); The Constitution of the United States*—Amendment XIV (1868), that their (JFT) attorney (Roger Doolittle) would not be able to represent him in the Step 4 Process for JPS and that Jones (president) was out of town. Doolittle also had to go out of town. That short notice gave Milton no time to find another attorney. Milton paid all of his dues to JFT and received little assistance. Because of no legal representation, Milton was told by Dr. Milton to take witnesses to verify everything. Powe; a friend, Rodney Dillamar; and Milton's niece, Tabitha Milton sat in the

Process. Before the end of the session, the superintendent for JPS, Jayne Sargent, wanted to know "Who was that nice young man that was one of my witnesses" *U.S.C.: § 1985 (2).* Throughout the case, Nelson always asked for names. The Deposition (EVIDENCE) was an example also of Nelson badgering for names—they wanted to know names so they could get to them and maybe harass them like Dr. Milton. As you will notice in the Deposition, Nelson never asked enough information about anything that could clear Milton's name and any time he was about to get to that point, she changed the subject *U.S.C.: § 1985 (2).* The majority of the questions she asked in the Deposition had nothing to do with the case for the first 29 out of 56 pages, and not one question concerning Hull and Graves—the reason for dismissal.

Fifth, Dr. Milton requested that Jones's write a letter (EVIDENCE) on Milton's behalf concerning the Step 3 Process. Jones stated that not saying anything was normal procedure. Why did Jones not say anything prior to her meeting with Dr. Milton. It was as if she was defending JPS. While Jones was writing the letter, she phoned Doolittle. He confirmed that he could not be present at the Step 3 Process, but could not remember who informed him *U.S.C.: § 1985 (2).* Dr. Milton asked how can an attorney represent anyone that can't remember important facts! Jones responded, "Well, when you get as old as I am, the only way to remember

things is to write them down." Dr. Milton then asked Jones whether or not she discussed this case with the JPS's Board or any other administrators, Jones responded, "I talk to Doris (Bridgeman) all the time, but I never discuss confidential matters *Crump v. Board of Education of the Hickory Administrative School Unit* 326 N.C. 603, 392 S.E. 2d 579 (1990); *Hett v. Ploetz* 20 Wis. 2d 55, 121 N.W. 2d 270 (1963); U.S.C.: § 1985 (2)." Moreover, Jones informed Dr. Milton one day that It was so funny when Milton walked in the office stating his problem. When Jones looked at her(Dr. Milton) and saw that she was not laughing, Jones became serious. As a matter of fact, before and after the Step 3 Process, Milton saw Jones laughing and talking to Hull and Graves, his accusers. Milton had to wait until they talked to discuss his case with her (Jones).

Sixth, Ragland/Waller and Waller was paid for everything done in the case even though Dr. Milton typed it. Ragland informed Milton that he had plenty of time to turn his Summary Brief in for his case. After submitting the Summary, Milton was told it was not within the time frame. This was not Milton's fault. Ragland assured Milton that he had plenty of time. As a matter fact, Ragland filed the papers for Milton. In addition, Ragland told Milton that he could not handle his case any longer *U.S.C.: § 1985 (2)* shortly afterward.

Lastly, the pre-trial date was April 19, 1999. On Friday, April 16, 1999, Milton received a call from

Bernice Catching, Nelson's office, and stated that they wanted to meet with him concerning the pre-trail order and to give Nelson a call later. When Milton called Nelson (April 16), she stated that they needed to meet the morning of the pre-trial (Monday, April 19, 1999). After that conversation, Trey Jones phoned Milton stating that the case was being put off (not dismissed) because there were so many motions pending and that Gwen Bryant will be getting in touch with Milton (they clock worked the operation). Milton followed up Monday morning (April 19, 1999) and talked with Jones and he told him that Bryant would be getting in contact with him again concerning the case. After Milton never received a call from her that week, he phoned her office and left a message. She never returned his calls (as of this day). After Bryant never called, He called back to the legal office and was then told that Bryant wouldn't be back for a week, he waited the week, After the week passed, he called again and was told that the case was dismissed—A week before the 30 days. Milton told Jones that he never received anything in writing. Jones then told Milton to contact the clerk's office where claims are filed. Milton called the office and was told that the paperwork was filed, not mailed on April 19, 1999 (EVIDENCE)—the same date of the pretrial. Milton was then told that they would send a copy of what was filed to him. Milton receive the dismissal on May 11, 1999, and it was postmarked May 10, 1999. Milton

asked then what to do and then was told that he could appeal the judge's decision in 30 days from April 19, (One week to prepare) 1999 *U.S.C.: § 1985 (2).*

Nelson told Milton (witnesses were Bernice Catchings and Tabitha Milton) that the District was not worrying about him (Milton). He (Milton) could sue for one million or two million dollars, it would not hurt the District. Nelson went on to tell Milton that he would win the case if it goes to court, but the District would appeal the decision and the case would be tied up so long that his child (Quintin, Jr.) wouldn't see a penny of the money ever *U.S.C.: § 1985 (2).* From this settlement meeting stemmed the Deposition (EVIDENCE). Nelson knew exactly what and what not to ask Milton. She (Nelson) only submitted parts of the Deposition (EVIDENCE) to the courts.

Milton never told Buckley that he was guilty. Milton kept telling Buckley that he did not say anything to Hull and Graves. Buckley's statement in the taped Employment Security meeting was that, "He told me that he did not do it and that he did not know Hull." Furthermore, Buckley did not sign the letter dated August 19, 1997, concerning the dismissal (EVIDENCE). Milton's dismissal reasoning was changed from sexual harassment to inappropriate language toward colleagues and unprofessional behavior (EVIDENCE). Buckley and Milton had an oral agreement concerning the limited service position. Milton only accepted the

position because it would have led to full time teaching in his area of study. Milton was paid as limited service (EVIDENCE) not teacher substitution.

Milton's life and Dr. Milton's life were affected tremendously. Their child has suffered also. Because of Milton's situation of slander and libel, he was unable to find steady employment for over a year *Hett v. Ploetz* 20 Wis. 2d 55, 121 N.W. 2d 270 (1963); *U.S.C.: § 2000e-2.* He lost a home, car, his credit report was affected, and his son was deprived of child support (EVIDENCE) for a year and a half. Justice did not prevail in this case.

The "Request for Information" (EVIDENCE) in this case stated (page 2, #4) that there were no similar cases. This was not true. The case between Exiluis Louis (EVIDENCE: Copy from JPS's Files) and Sabrina Ervin (EVIDENCE: Copy from JPS's Files), who worked at the CDC, was similar. This case involved sexual harassment, inappropriate language and unprofessional behavior. Both were at-will employees, Louis was limited service (like Milton) and Ervin was a secretary. Both remained in their position after the incident. Nelson and Mott thoroughly investigated the case. They went to CDC personally to investigate. Milton had to get a second appointment before they would meet with him. Milton's case was not investigated thoroughly. He was not allowed to write like Louis (EVIDENCE: Copy from JPS's Files), Ervin (EVIDENCE: Copy from JPS's Files), Hull (EVIDENCE:

Copy from JPS's Files) and Graves (EVIDENCE: Copy from JPS's Files). *U.S.C.: § 1981a; U.S.C.: § 1985 (3)*; *The Constitution of the United States*—Amendment XIV (1868). Milton was told that he could not write a statement. This was discrimination. Louis and Ervin's case was handled immediately. The administrators waited a week to handle Milton's. The dates were false in Hull (EVIDENCE) and Graves (EVIDENCE) letters. In addition the Interrogatories (EVIDENCE) and the Request for Production was incomplete (EVIDENCE). JPS responses were not accurate. The majority of the responses were "Objection as to relevancy" (EVIDENCE). All responses that would lead to Milton's defense were not answered.

SUMMARY OF ARGUMENT

Bias of the President/ Deprive Due Process—In the Step 4 Process in JPS, Doris Bridgeman, Board President made a statement before Milton defended his case that the Board was only listening to him "out of courtesy". The bias of the president was sufficient to depriving Milton of due process *Crump v. Board of Education of the Hickory Administrative School Unit,* 326 N.C. 603, 392 S.E. 2d 579 (1990). Bias makes the decision-making process inherently unfair and violates due process *The Constitution of the United States*—Amendment XIV (1868). Milton constitutionally-protected liberty interest was implicated, since the charges impaired his reputation.

Milton was terminated because of sexual harassment (EVIDENCE). Afterwards, it was changed to inappropriate language toward colleagues and unprofessional behavior (EVIDENCE). There were a lot of changes made stemming from this case in Jackson Public Schools. There was no harassment, nor inappropriate language, nor unprofessional behavior in Milton's case. JPS stated in their summary judgement that "the district investigated the matter and determined that the complaints were credible." Milton have not seen the CREDIBLE evidence. Hull and Graves, to this day, have not shown proof that would support their accusations in this case. Brian Anderson, Hull's friend; Green, Security Guard at Capital City; Holmes, Assistant Principal at Capital City, Perkins, instructor in cafeteria at Capital City; Peters, instructor in cafeteria at Capital City did not write statements to support the accusations. In addition, Buckley's letter (EVIDENCE) was not endorsed with support. Perjury would exist if individuals in this case kept the same stories in court. Hull and Graves statements were not affidavits nor did they give depositions.

As for sexual harassment, inappropriate language, and unprofessional behavior in the other case . . . Louis was a limit service employee also. In his written statement (EVIDENCE) he wrote, "While I sat next to her, she was touching my legs"; "While we talked, our head getting closer and closer we kissed

each other"; and "We got in the elevator and went down. We hug each other and kiss good bye". This was inappropriate and unprofessional and he admitted he did it in the letter. He remained at the CDC as a "interpreter" for another year.

Ervin (married) was at-will also. In her written statement (EVIDENCE) she wrote, "He sat down beside me, assisting in what he wanted me to type. While I was typing this information, this employee asked me would I come up to Gibson's room on my lunch break because he wanted to talk"; "At one point in the conversation, this employee began to approach me in a negative way by stating that it was something about me that brought a feeling upon him"; "He touched me on my legs, and I pushed him away and told him I was going back down stairs"; "Upon leaving the room, Louis grabbed my arm, then he grabbed me around my waist, and held me with force asking for a kiss, and I asked him to let me go"; "I started toward the lounge and he grabbed my arm and pulled me back and I asked him what did he want, and he continued to tell me he wanted a kiss from me"; and "I began to head toward the lounge, he grabbed my waist and held me again with force and tried to get a kiss from me, when he saw I couldn't get loose from him, he kissed me on my mouth and let me go and stood back in the corner and said thank you" This was inappropriate and unprofessional

behavior. She remained at the CDC in clerical (at-will). These actions were on school time.

Not only were these two "actual" inappropriate and unprofessional behaviors, but they were dealt with professionally. Mott and Nelson came to the school personally to investigate immediately. Milton accusations went a week before it was handled and he had to set up a second appointment with Nelson. Nothing has been proven in this case against Milton. Just like the Deposition, Mott and Nelson were more interested in Milton's personal life and past employment. Mott, the immediate supervisor, did not ask Milton any questions concerning the case. Nelson only asked a few. It seemed as if their minds were already made up and they were just going through formality "out of courtesy" as Doris Bridgeman, Board President stated in the Step 4 Process *Crump v. Board of Education of the Hickory Administrative School Unit,* 326 N.C. 603, 392 S.E. 2d 579 (1990). JPS has a copy of all evidence (App. 21). ALL were over looked *U.S.C.: § 1981b.*

Mott maliciously came to the Center to intimidate Dr. Milton by asking her, with a smirk, "Is there something you would like to talk to me about", around 8:00 a.m. the next day after Milton was terminated. Moreover, Mott got up in a school breakfast (October 1997) and stated that he "got rid of all of the "bad" people at the Capital City". Milton was the only one at

the time. Mott made this statement in the presence of faculty, staff, administrators, and guest. He then looked directly at Dr. Milton. All of this humiliation led to Dr. Milton having to uproot and move because of intentional maliciousness *U.S.C.: § 1981b.* Mott moved faster (the day after he terminated Milton) to boast to Dr. Milton than he did to investigate the case thoroughly. Amy Berry, Mott's good friend, made a statement concerning Dr. Milton's child support payments. Lee, Mott's secretary, called Milton crazy and made up a story concerning Hull and never stated it again after she knew that Milton had been talking to Dr. Milton. A lot of things changed for the benefit of JPS, there were no ethics or professionalism in this case. Why was Milton's job title changed. Milton did not lie to Buckley, he was honest in the beginning. Buckley did not get any surprises. Someone had to influence Buckley to do what he did. One of the Interrogatory questions, that was not answered, was to provide the past and present positions of the individuals that were involved in this case—all immediate positions were changed except Buckley and Downing. Why? Buckley knew the truth—He was doing what he was told. Donna Downing (read from Milton's files without his permission—invasion of privacy) did not change because she was doing as she was told.

In Nelson's Deposition, (56 pages) (EVIDENCE), she was more interested in Milton's personal life than

the case. She did not ask one question concerning Hull and Graves—the reason for the case. Pages 1 - 29 dealt with Milton's residences, degrees, ex-wives and their addresses, Dr. Milton's telephone number, Child support, step children, rates of pay, supervisor's names and numbers, work history, emotional distress, and doctor appointments. Nelson finally asked a question concerning the case on page 29. She never let Milton get in detail on any question. Milton also had a legal right to fully answer his questions in a deposition. Nelson always wanted to know names, on and off the record so she could get to them like Ragland. JPS should not get away with treating people like they were inhuman. ALL individuals of JPS—faculty, staff, administrators, superintendent, board and the attorney SHOULD ADHERE TO RULES, LAWS, POLICIES, etc. The District does not exercise fairness, following rules, confidentiality, ethics, putting students first, honesty, integrity, and professionalism. Every employee in JPS needs to follow and abide by rules, regulations, laws, etc. just as everyone else in Mississippi and other states.

LEGAL ARGUMENT

A. Standard of Review:

Milton has stated from DAY ONE that he did not say or do anything to Hull and Graves—Milton is innocent of the charges that is presently against him. Because of this case, Milton lost a home, car, furniture,

clothes, a family, a better credit history, wages, and is still behind on bills. JPS has not shown proof that he is guilty of the charges made by Hull and Graves. Milton's name should be cleared from JPS's files and be awarded damages for the two years of suffering. Not only Milton, but Dr. Milton, and their child as well, they was involved just as much as he was. Dr. Milton had to uproot to get a peace of mind and to stop the intentional maliciously attacks. Milton should be awarded damages for (1) lack of due process ($300,000) *42 U.S.C.: § 1983, 1991;* (2) slander ($250,000), (3) libel ($250,000), (4) mental stress ($250,000), (5) discrimination—sex (both women wrote statements and he was not allowed) and national origin (Louis [Haitian] did not lose his job and proof was shown of guiltiness *U.S.C.: § 1981b*), ($300,000), and (6) invasion of privacy ($250,000) *U.S.C.: § 1981b.*

Moreover, Milton's files should be cleared and receive back payments ($25,000) for the job he was hired to do until malicious interruptions. All are evident. Dr. Milton/Quintin Jr. should be award damages for (1) intentional infliction of mental cruelty/stress ($300,000) *42 U.S.C.: § 1983, 1991*—She had to serve as an attorney, uproot to another location and fund part of the case because of the politics that were involved *Carey v. Piphus,* 435 U. S. 256-57 (1978); (2) intentional malicious acts ($300,000) *42 U.S.C.: § 1983, 1991,* and

(3) back child support payments and regular support ($25,000).

Nelson boasted in the settlement meeting that the District was not worrying about Milton. This statement was stemmed from the facts that JPS got to everyone that was involved except Dr. Milton. She was harassed until she had to leave. Nelson also boasted that Milton could sue for one million or two million dollars, it would not hurt the District and also admitted that Milton was treated unjustly with JPS, and stated that JPS has the right to believe whomever they wanted to *U.S.C.: § 1985 (2).* It was obvious she had the support of the Board with Bridgeman's bias feelings from the Step 4 Process with Milton *Crump v. Board of Education of the Hickory Administrative School Unit,* 326 N.C. 603, 392 S.E. 2d 579 (1990).

Milton was deprived of his constitutional rights at the Federal (App. 1) and District (App. 3) courts. Title IX provides, with certain exceptions not at issue here, that "[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. " 20 U.S.C. §§1681(a).

Moreover, the Constitution of the State of Mississippi (App. 20) does not state that at-will does not have rights.

B. GENUINE FACTUAL ISSUES REGARDING THE CASE

Milton believed that his case was filed in a timely manner because he was told by the PAID attorney Ragland (a friend and colleague of attorney Nelson) that he had plenty of time to file.

JPS claimed that "After investigating these matters and concluding that the complaints were meritorious, defendant terminated plaintiff for what it deemed "inappropriate, unprofessional, and nonconsensual" conduct." Milton should have been told WHAT THE MERITORIOUS INFORMATION was since his reputation was at risk.

One of Milton claims was discrimination. **Milton was discriminated against due to the Fourteenth Amendment—Rights Guaranteed Privileges and Immunities of Citizenship, Due Process and Equal Protection.** Section 1 of the Fourteen Amendment states that "ALL persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

True, Milton is a black American male, BUT, he

was NOT given the same opportunities as Graves (certified female), Hull (certified female), Louis (at-will single Haitian male), and Ervin (at-will married female). All four individuals EXCEPT Milton were given the opportunity to write their side of the story. As stated in the verdict of the District Court, "Plaintiff admitted in his deposition that his written statement included no information which he had not already provided to defendant in the previous interviews, STILL he was not given the opportunity to write like the other four individuals. Their stories could have been the same also. In addition all four EXCEPT Milton were given an investigation, were given due process, were given a fair chance, were not slander/libel against, did not have mental stress, kept their jobs and reputations, and were able to hold up their heads in public. Milton was not. This case has been a nightmare for Milton and his family. In essence, he was NOT treated fairly. This case has deprived him of his life, liberty and property, without due process of law and without equal protection of the laws—which is a violation of the FOURTEENTH AMENDMENT.

How did Milton have a chance? No employee in JPS would have jeopardized their job for him. Though that employee would have not gotten fired, but they would have had a hard time in the system like Dr. Milton did for speaking up for what was right. Who wants to work under conditions like that.

It does not matter whether there were one or two females that accused Louis. What matters is that it was sexual harassment, it was improper behavior, it was unprofessional and at one time, it was nonconsensual. If it was consensual at all times, the case would not be so. What message is JPS sending? Are they saying that if it is consensual, it is okay to do what ever you want to with anyone DURING SCHOOL HOURS. Louis and Ervin was actually touching each other on school time using classrooms to do adulterous acts. What is JPS teaching and what are their beliefs. Milton has suffered greatly and because Dr. Milton stood up for what was right, she has suffered also—so much that she had to leave to get a clear mind.

Also what matters is that Louis and Ervin stayed at the CDC afterwards and that HE WAS AN AT-WILL EMPLOYEE WITH RIGHTS and HE WAS GIVEN DUE PROCESS. In addition, Louis and Ervin was not made to give a deposition, and Graves and Hull was not made to give a deposition. The deposition for Milton was mainly to see and get more names to interfere.

Please keep in mind that Milton would not keep fighting unless he was innocent. Moreover, Dr. Milton would not have helped until she saw what was going on. Her conversation with Lee with a made-up story concerning Hull and Milton that was changed later; Mott smirking at her concerning terminating Milton;

Mott slandering Milton's name in a meeting; Jones smirking concerning the case; the business card given to Milton by Graves; the lunch schedule was evidence; the Board president telling Milton that he only had five (5) minutes to defend himself when the others had weeks to make up a notorious lie was evidence to Dr. Milton. Had Dr. Milton not stood up for what was right, she would have been just as guilty as JPS—Accessory to the Crime. Dr. Milton has/had an excellent reputation in the JPS, Community Colleges (adjunct instructor), State Department of Education in Mississippi (consultant), Jackson State University (adjunct instructor), etc. She would not risk all of her hard work to fight for NOTHING but she would risk it all to fight for justice and fairness—SOMETHING. NO ONE SHOULD BE TREATED LIKE THEY ARE INHUMAN. When various people are chosen to head a school system, they should be FAIR to ALL individuals, no matter who they are. Their focus should be on educating our children and not destroying their parents.

Everything that would help clear Milton was heresay in JPS eyes. Why wasn't it heresay with Graves and Hull? NO ONE SAW OR HEARD A THING. How could a school district destroy a person's life by ONLY TAKING ONE SIDE and that ONE SIDE happens to be CERTIFIED INDIVIDUALS with rights in Jackson Public Schools.

CONCLUSION

Milton was deprived of his constitutional rights at the state and federal levels. If Milton was guilty, why would there have been two (2) official settlement meetings and one (1) unofficial one. Moreover, a District Court Judge (Nichols) was present in the first settlement meeting. Milton has demonstrated a genuine issue of material facts that has been constantly overlooked (App. 21). JPS is only responding to ONE charge which is discrimination and is overlooking the other issues. Milton stated sex because his accusers were females that got special lawful treatment that he did not receive. He could not have legal representation nor witness. He could not question his accusers. Moreover, Milton stated national origin because Louis, Haitian got special lawful treatments that he did not receive. Louis wrote his side of the story and his case was given attention (thorough investigation) the next day. This is a valid charge of discrimination. Please do not forget that JPS is also guilty of slander, libel, lack of due process, intentional and/or negligent infliction of emotional distress (EVIDENCE), and invasion of privacy for reading from him personnel folder without his permission. Moreover obstruction of justice, violating federal laws and regulations, and not following policies and procedures are prevalent. Milton is asking the Supreme Court to please hear his side and see the evidence.

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 99-60348

Summary Calendar

QUINTIN L. MILTON

Plaintiff- Appellant,

Versus

JACKSON PUBLIC SCHOOLS

Defendant- Appellee.

Appeal from the United States District Court for the Southern District of Mississippi, Jackson Division District Court No. 3:98 - CV-467.

Before Jolly, Jones, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Quintin Milton sued his former employer, the Jackson Public School District, alleging he was discharged based on his national origin in violation of Title VII, 42 §U.S.C.A. §2000 et seq., and 42 U.S.C.A. §1981. Milton also asserted state law Claims of negligent and intentional infliction of emotional distress. The district court granted summary judgement in favor of Jackson Public Schools with regard to Milton federal discrimination claims and declined to exercise pendent jurisdiction over the remaining state law claims.

Having reviewed the parties' briefs, the district court's comprehensive opinion, and pertinent sections

of the record, this court agrees that Milton was neither able to establish a prima facie case of discrimination nor adduce sufficient evidence to support a reasonable inference that national origin was a determinative factor in this termination. This court therefore affirms for essentially the same reasons stated by the district court.

AFFIRMED.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

QUINTIN L MILTON PLAINTIFF

VS CIVIL ACTION NO. 3:98CV467LN

JACKSON PUBLIC SCHOOL DISTRICT DEFENDANT

DEFENDANT'S MOTION TO STRIKE PLAINTIFF'S RESPONSE AND AMENDED RESPONSE AND OPPOSING AFFIDAVITS TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

COMES NOW, THE DEFENDANT Jackson Public School District, by and through counsel, and moves this Court to grant its motion to strike plaintiff's response, amended response and opposing affidavits. The plaintiff's response is untimely pursuant to the Uniform Local Rule 7.2(D). The defendant filed its motion for summary judgment on February 25, 1999. The plaintiff did not file a response until April 1, 1999, which was received by defendant on April 6, 1999.

The plaintiff also failed to comply with Federal Rule of Civil Procedure 56(e) which requires opposing affidavits to be made on personal knowledge and set forth facts which would be admissible in evidence. The plaintiff's affidavits contain heresay, irrelevant material, and matters which the affiant has no personal knowledge.

The defendant's motion to strike is based upon the brief filed in support thereof.

WHEREFORE, PREMISES CONSIDERED, the defendant respectfully requests that its motion to strike the plaintiff's response and opposing affidavits be granted.

Dated: April 12, 1999

Respectfully Submitted,

Defendant Jackson Public School District

By _____

JoAnne Nelson

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

QUINTIN L MILTON PLAINTIFF

VS CIVIL ACTION NO. 3:98CV457LN

JACKSON PUBLIC SCHOOL DISTRICT DEFENDANT

JUDGMENT

Pursuant to the memorandum opinion and order granting defendant's motion for summary judgment entered in this case on this date, it is hereby

Ordered and adjudged that plaintiff's federal claims are dismissed with prejudice and that his sate law claims are dismissed without prejudice.

SO ORDERED AND ADJUDGED this 19th day of April, 1999.

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

QUINTIN L MILTON PLAINTIFF

VS CIVIL ACTION NO. 3:98CV467LN

JACKSON PUBLIC SCHOOL DISTRICT DEFENDANT

MEMORANDUM OPINION AND ORDER

This cause is before the court on motion of defendant Jackson Public school District for summary judgement pursuant to Federal Rule of Civil Procedure 56. Plaintiff, proceeding pro se, has responded in opposition to the motion. The court, having considered the motion and additional submissions of the parties, concludes that defendant's motion is well taken and should be granted.

Plaintiff is a former limited service physical education teacher for the Jackson Public School District. In August of 1997, defendant received complaints from two female teachers charging that

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[1] Plaintiff's response and accompanying affidavits were filed well after the time allowed for responding to the motion, and defendant has filed a motion to strike the response as untimely. While a nonmovant's failure to respond to a motion for summary judgment is not a basis for granting summary judgment to the movant, see Taylor v Dallas County Hosp. Dist., 959 F. Supp. 373, 376 (N.D.Tex. 1996), in that situation, the court takes the moving party's factual assertions and evidence as undisputed and must assess whether the moving party has met its burden of entitlement to summary judgment based on these facts, see Eversley v. Mbank Dallas, 843 F.2d 172, 174 (5th Cir. 1988). Out of an abundance of caution, and in an effort to afford every benefit of the doubt to a pro se plaintiff, the court has examined the responsive submissions to determine whether there is sufficient evidence of national origin discrimination for plaintiff to withstand defendant's motion. As discussed, infra, these responsive submissions, even it timely filed, do not allow plaintiff to survive summary judgment.

plaintiff had sexually harassed them. After investigating these matters and concluding that the complaints were meritorious, defendant terminated plaintiff for what it deemed "inappropriate, unprofessional, and nonconsensual" conduct.

Following his dismissal, plaintiff filed a pro se complaint alleging that he had been discriminated against "because of [his] National Origin (Black American)"[2] and that he had be subjected to intentional and/or negligent infliction of emotional distress. Specifically, plaintiff claims that he was treated differently than a Haitian employee who was accused

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[2] Plaintiff's national origin discrimination claim is brought pursuant to Title VII of the Civil Rights of 1964, 42 U.S.C. § 2000 et. seq., and pursuant to 42 U.S.C. § 1981. Defendant takes the position that "plaintiff cannot prove a claim under § 1981 because only race discrimination is actionable [under that statute]."

Section 1981 provides that "[a] ll persona . . . shall have the same right . . . to make and enforce contracts . . . as is enjoyed by white citizens." Whether or not a plaintiff's allegations of national origin discrimination fall within the ambit of § 1981 is often a close question. See Barbara Lindemann & Paul Grossman, Employment Discrimination Law, p. 366 (3d ed. 1997) (citing St. Francis College v. Al-Khazraji, 481 U.S. 604, 613, 107 S. Ct. 2022, 2028, 95 L. Ed. 2d 582 (1987) Brennan, J., dissenting)) Although "a national origin discrimination claim per se is not cognizable under § 1981," the Supreme Court "through its broad definition of race appears to have recognized that, if properly pleaded, § 181 may cover at least some claims that are, at bottom, one for national origin discrimination.") response and accompanying affidavits were filed well after the time allowed for responding to the motion, and defendant has filed a motion to strike the response as untimely. While a nonmovant's failure to respond to a motion for summary judgment is not a basis for granting summary judgment to the movant, see Taylor v Dallas County Hosp. Dist., 959 F. Supp. 373, 376 (N.D.Tex. 1996), in that situation, the court takes the moving party's factual assertions and evidence as undisputed and must assess whether the moving party has met its burden of entitlement to summary judgment based on these facts, see Eversley v. Mbank Dallas, 843 F.2d 172, 174 (5th Cir. 1988). Out of an abundance of caution, and in an effort to afford every benefit of the doubt to a pro se plaintiff, the court has examined the responsive submissions to determine whether there is sufficient evidence of national origin discrimination for plaintiff to withstand defendant's motion. As discussed, infra, these responsive submissions, even it timely filed, do not allow plaintiff to survive summary judgment.

of sexual misconduct by a co-employee but who was not terminated. Defendant seeks summary judgment contending that plaintiff cannot establish a prima facie case of national origin discrimination, and in the alternative, that plaintiff cannot demonstrate that defendant's reason for termination is a pretext for unlawful discrimination. The court will address defendant's arguments in turn.

Where, as in the instant case, there is no direct evidence of discrimination, the United States Supreme Court has provided a "burden shifting" evidentiary framework to be utilized in analyzing Title VII claims of discrimination in the workplace. See Walker v. Uncle Ben's, Inc., No. 4:97CV65DB, 1998 WL 173228, *4 (N.D. Miss. 1998) citing McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973), Texas Dept. of Community Affairs v. Burdine, 450 U.S. 248, 252-53, 101 S. Ct. 1089, 1093, 67 L. Ed. 2d 207 (1981), and St. Mary's Honor Ctr. v. Hicks, 509 U.S. 502, 506, 113 S. Ct. 2742, 2747, 125 L. Ed. 2d 407 (1993)). Under this approach,

> the plaintiff must (first) establish a prima case of discrimination; second, if he is so successful, the defendant must articulate some legitimate nondiscriminatory reason for the challenged employment action; and third, if the defendant is so successful, the inference of discrimination raised by the prima facie case disappears, and the plaintiff then must prove, by a preponderance of the evidence, both that the defendant's articulated reason is false and that the defendant intentionally discriminated.

Walton v. Bisco Indus., Inc., 119 F.3d 368, 370 (5th Cir. 1997).

To establish a prima facie case of discriminatory discharge, a plaintiff may show that:

(1) he is a member of a protected group;

(2) he was qualified for the position in question;

(3) he was discharged from the position; and

(4) he was replaced by someone outside the protected group.

See Chacko v. Texas A&M Univ., 960 F. Supp. 1180, 1181 (S.D. Tex. 1997). Alternatively, a plaintiff may establish a prima facie case by showing that he is a member of a protected class, that he was qualified for the position and that similarly situated persons outside of the class were treated more favorable than he. Id. (citing Nieto v. L&H Packing Co., 108 F.3d 621, 623 n.5 (5th Cir. 1997)).

Defendant contends that plaintiff cannot establish a prima facie case, first, because "(h)e cannot show that he is of foreign national origin as required for membership in the protected class." Defendant has cited no authority, and the court is aware of none, in support of this proposition. While national origin claims under Title VII traditionally involved discrimination against persons born outside the United States, Americans have also brought such suits under a reverse discrimination theory.[3] Thus, African American claiming that he was treated differently than a Haitian, is a member of a protected class for the purpose of this case.

Defendant next argues that plaintiff's prima facie case is deficient because he cannot show that he was replaced by someone outside his protected class. In this regard, defendant asserts, and plaintiff does not dispute, that plaintiff was replaced by an African American. While this fact does not foreclose plaintiff's ability to make out a prima facie case, [4] it forces him to follow the alternative route by showing that similarly situated persons outside of the protected class were treated more favorable than he. See Chacko, supra.

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[3] Accord, Fortino v. Quasar Co., 950 F.2d 389, 392 (5th Cir. 1991) ("We may assume that just as Title VII protects whites from discrimination in favor of blacks as well as blacks from discrimination in favor of white, . . . so it protects Americans of non-Japanese origin from discrimination in favor of persons of Japanese origin."); Lemnitzer v. Philippine Airlines, Inc., 816 F. Supp. 1441, 1450 (N.D. Cal 1991), reversed in part on other grounds, 52 F.3d 333 (9th Cir. 1995) ("National origin claims under Title Vii traditionally consider groups of those born outside the United States.

Said another way, he must establish that he was treated differently than an non-American employee was treated under "nearly identical" circumstances. See Hamilton v. Grocers Supply Co., Inc., 986 F.2d 97, 99 (5th Cir. 1993) when making comparisons in order to create an inference of discrimination, plaintiff must show that the employer gave preferential treatment to one outside the protected class under nearly identical circumstances).

As already stated, plaintiff alleges that by being fired for allegations of sexual harassment, he was treated differently than a Haitian employee, Exlius Louis, who had been accused of sexual harassment by a co-employee but was not terminated. Plaintiff testified that "(t)his Haitian . . . was allowed to remain at work the entire time . . . while I (was) terminated, although I was innocent of the charge." Plaintiff further asserts that the complaint lodged against Louis was investigated and "handled" in a different manner than the complaints made against him. Specifically, he

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Here, plaintiffs (American citizens) allege reverse discrimination, which is cognizable under Title VII.").

[4] Defendant argues that plaintiff's failure to satisfy this element is dispositive. However, the Fifth Circuit has made clear that "the single fact that a plaintiff is replaced by someone withing the protected class does not negate the possibility that the discharged was motivated [by] discriminatory reasons." Neito, 108 F.3d at 624 n.7.

[5] The court should point out that plaintiff has produced no evidence of this "written statement" which he claims defendant accepted from Louis. He merely offers that unsupported assertion of this fact by way of an affidavit of his ex-wife (who, as a former employee of the Career Development Center, was also apparently employed at one time by defendant). There is no indication of how she would have had personal knowledge of Louis's alleged statement. In any event, plaintiff was interviewed by defendant on more than one occasion and questioned about the charges. It was only after these interviews that defendant allegedly refused plaintiff's written statement, saying it "(didn't) need it." Plaintiff admitted in his deposition that the written statement included no information which he had not already provided to defendant in the previous interviews.

alleges that defendant accepted a written statement from Louis but refused a similar statement from him.[5]

In support of its motion, defendant has adduced uncontroverted evidence that there was a single complaint made against Louis and that this complaint was voluntarily withdrawn by the complainant. However, there is undisputed evidence that defendant received two complaints charging plaintiff with sexual misconduct, neither of which was withdrawn. In light of these facts, the court concludes that the circumstances surrounding plaintiff's termination and Louis' retention were not "nearly identical" and that the two employees were not similarly situated. As a result, plaintiff cannot raise a genuine issue of material fact as to the prima facie showing of an initial inference of national origin discrimination.

Even if the court were to assume for the sake of argument that plaintiff could make a prima facie showing, defendant submitted the affidavit of Assistant Superintendent Willie Mott who testified that the defendant fired plaintiff, not because he is an American, but because he engaged in "inappropriate conduct" with female co-workers. Defendant has thereby satisfied its burden of offering a nondiscriminatory explanation for plaintiff's termination.

With defendant having provided a legitimate reason for the firing, plaintiff must show that this reason is a pretext for unlawful discrimination–that "the employer's nondiscriminatory reason is not credible and that an unlawful discriminatory intent motivated the employer's actions." Dupont-Lauren v. Schneider (U.S. A.), Inc., 994 F. Supp. 802, 817 (S.D. Tex 1998) (citing Walton, 19 F.3d at 370). In the context of a motion for summary judgment,

> a jury issue will be presented and a plaintiff can avoid summary judgment . . . if the evidence taken as a whole (2) creates a fact issue as to whether . . . the employer's stated reason [] was what actually motivated the employer and (2) creates a reasonable inference that [national origin] . . . was a determinative factor in the actions of which plaintiff complains . . . If the

> evidence is not substantial, a jury cannot reasonable infer discriminatory intent . . . The plaintiff cannot succeed by proving only that the defendant's proffered reason is pretextual. . . . Rather, a reason cannot be proved to be a pretext for discrimination unless it is shown both that the reason was false, and that discrimination was the real reason.

Walton, 119 F 3d at 370.

In response to defendant's motion, plaintiff offers his own affidavit wherein he simply asserts that he was treated differently than Louis because the latter was also accused of sexual misconduct but was not fired. In addition, he submits an affidavit of his ex-wife who asserts, essentially, that plaintiff was treated unfairly.[6] Plaintiff has, in short, adduced no evidence tat defendant's articulated reason for firing him is a pretext for national origin discrimination.

On the other hand, defendant has proffered evidence that the same individual, building administrator Elijah Buckley, recommended both the hiring and firing of plaintiff. This situation gives rise to what has been termed a "same actor" inference tat national origin discrimination was not the motive behind plaintiff's termination. See Brown v. CSC Logic, Inc., 82 F.3d 651, 658 (5th Cir. 1996). Add to this the fact that plaintiff was replaced by an individual who was also American[7] and the fact, already discussed, that he and Louis were not similarly situated, and it becomes apparent that there is no triable issue as to whether plaintiff's termination was motivated by his national origin.

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[6] It has long been the law in this circuit that Title VII does not protect against unfair business decisions, but only against decisions motivated by discriminatory animus directed at members of protected classes. Nieto, 108 F.3d at 623.

[7] The Fifth Circuit has stated that while not outcome determinative, this fact "is certainly material to the question of discriminatory intent." Nieto, 108 F 3d at 624.

Assuming without deciding that plaintiff could satisfy the first prong of Walton, supra, by creating a fact issue as to whether defendant's stated reason was what actually motivated it to fire plaintiff, plaintiff has failed to create a reasonable inference that national origin was a determinative factor in plaintiff's termination–that national origin discrimination was the "real reason" for his firing. As such, even if plaintiff had made a prima facie showing of discrimination, which he did not, defendant would be entitled to summary judgment nonetheless.

Based on the foregoing, defendant's motion for summary judgment is granted with respect to plaintiff's Title VII and § 1981 claims. In addition, the court declines to exercise its pendent jurisdiction over plaintiff's state law claims.[8] A separate judgement will be entered in accordance with Federal Rule of Civil Procedure 58.

SO ORDERED this 19th day of April, 1999.

UNITED STATES DISTRICT JUDGE

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8 When the federal claims are disposed of prior to trial, generally the court should decline to exercise pendent, or supplemental, jurisdiction. United Mine Workers v. Gibbs, 383 U.S. 715, 86 S. Ct. 1130, 1139, 16 L. Ed. 2d 218 (1966); 28 U.S.C. § 1367 (c) (3).

COMPLAINT POLICY/LINE AND STAFF RELATIONS

Section I: Line and Staff Administration

The administration of the district is that of line and staff. Employee shall conduct their affairs with the administrators according to the organizational arrangement. The Board of Trustees is the policymaker fo the school district, and the superintendent, and the board's chief executive officer, is charged with the general operation of the entire school district. The superintendent is responsible to the Board of Trustees and all other employees are responsible to the superintendent and to the board through the superintendent.

All employees shall refer matters requiring administrative action to their immediate supervisor who shall refer such matters to the next higher authority when necessary. Within individual schools, the principal's administrative organization is the established authority. While employees will report to the designated administrator on specific problems, the principal remains the final authority at the individual school level.

In the event a satisfactory answer or settlement is not given by the immediate supervisor, then te employee shall report to the next level of supervision. All employees shall have the right to appeal any decision made by their supervisor through applicable procedures. All concerns will receive final consideration from the superintendent or his designees.

If satisfactory answers have not been received from the superintendent, the next step would be the Board of Trustees. The procedures for contacting the Board of Trustees is through a formal letter written to the secretary to the Board of Trustees. Once a formal letter is written to the board, arrangements will be made by the superintendent for an audience with the board which may be through an open or closed meeting in accordance with the Open Meeting Act. Because the board serves as an impartial neutral decisionmaker in personnel complaint matters, school district employees

should not contact individual board members during the complaint process.

Within the board framework of board policy, other school officials shall assist the supervisor in charge as assigned. All supervisors have the responsibility for communication with those under their supervision.

This policy does not modify the at-will status of administrative or non-administrative classified employees.

The superintendent may develop administrative regulations regarding standards of conduct for staff members.

EMPLOYEE CONDUCT AND CODE OF ETHICS FOR JACKSON PUBLIC SCHOOLS

An employee of the Jackson Public School District must conform to an ethical code. The code must be idealistic and at the same time practical so that it can apply reasonable to all employees. The employee acknowledges that the schools belong to the public they serve and exist to provide educational opportunities to all children.

The effective operation of the school district requires the services of employees of integrity and human understanding. To maintain and promote these essential traits, all employees of the Jackson Public School District are expected to maintain high standards in their school relationships. School district employees shall not use or attempt to use their official positions to secure any valuable thing or benefit for themselves that would not ordinarily accrue to them in the performance of their official duties, if such thing or benefit would represent a substantial and improper influence upon them with respect to their duties.

Employees standards include the following:

1. Maintenance of just and courteous professional relationships with pupils, parents, staff member, and others.
2. Maintenance and improvement of their own efficiency and knowledge of developments in their fields of work through research and continuing professional development.
3. Transaction of all official business with the properly designated authorities of the school system.
4. Placement of the welfare of children as the first and fundamental concern of the school system in all actions and decisions; thus appointments to positions and promotion must be based solely on merit. The use of pressure on school officials for appointment or promotion is unethical.

5. Restraint from using school contacts and privileges to promote partisan politics, sectarian religious views, or selfish propaganda of any kind. Employees should avoid using their positions for personal gain through political, social, religious, economic, or other influence. All responsibilities will be fulfilled with honesty and integrity.

6. Directing any criticism of other staff members or of any department of the school system toward the improvement of the school system. Such constructive criticism is to be made directly to the particular school administrator who has the administrative responsibility for improving the situation and then to the superintendent, if necessary.

7. Proper use and protection of all school properties, equipment, and materials.

8. Proper care and use of confidential information and student records.

9. **Support of the principle of due process**.

10. Honor all contracts until fulfillment or release.

11. Obey local, state, and federal laws and regulations in the performance of their job duties.

12. Implement policies of the Board of Trustees and the administrative rules and regulations of the school district.

No employee, in the course of his/her duties, who has access to or possesses information relating to his/her employment, shall disclose, divulge or otherwise compromise, except as authorized by the superintendent and/or Board of Trustees, the district's strategy on matters in negotiation, work product and planning for complaint hearings and litigation relating to employer-employee relations, office memoranda, or other matters relating to employer-employee relations

the premature disclosure of which would jeopardize the district's negotiating position or planning for complaint hearings and litigation. Confidential information will not include matter disclosed to the general public by the Board of Trustees, or designees, or matters of non-exempt public records as defined by state law.

The district recognizes the obligation of all employees of the school district to be conscious of their professional responsibility not to divulge information presented by a student, parent, a colleague, or an agency when that revelation is not in the best interest of the district. The district, it is necessary to share information on a "need to know" basis. **However, the sharing of information should only serve to assist, rectify, resolve a situation and should never be downgraded to idle gossip or negative commentary to the media, or others within the community.**

SOURCE: Jackson Public School District, Jackson, Mississippi

DATE: April 30, 1980

AMENDED: November 1, 1988

July 16, 1990

September 18, 1995

TITLE IX—Federal Financial Assistance

Title IX provides, with certain exceptions not at issue here, that "[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. " 20 U.S.C. §§1681(a).

The Constitution of the State of Mississippi

The Constitution of the State of Mississippi (Adopted November 1, A.D., 1980) Preamble states that "We, the people of Mississippi in convention assembled, grateful to Almighty God, and involving his blessing on our work, do ordain and establish this Constitution." The Mississippi Article 3, Bill of Rights STATES THAT . . .SECTION 8—All persons resident in this state, citizens of the United States, are hereby declared citizens of the state of Mississippi (1869 art I §§ 1). SECTION 13—The freedom of speech and of the press shall be held sacred; and in all prosecutions for libel the truth may be given in evidence, and the jury shall determine the law and the facts under the direction of the court; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted (1817 art I §§§§ 6, 7 and 8; 1832 art I §§§§ 6, 7 and 8; 1869 art I §§ 4).SECTION 14—No person shall be deprived of life, liberty, or property except by due process of law (1817 art I §§ 10; 1832 art I §§ 10; 1869 art I §§ 2). SECTION 24—All courts shall be open; and every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice shall be administered without sale, denial, or delay (1817 art I §§ 14; 1832 art I §§ 14; 1869 art I §§ 28). SECTION 25—No person shall be debarred from prosecuting or defending any civil cause for or against him or herself, before any tribunal in the state, by him or herself, or counsel, or both (1817 art I §§ 29; 1832 art I §§ 29; 1869 art I §§ 30). SECTION 32—The enumeration of rights in this constitution shall not be construed to deny and impair others retained by, and inherent in, the people (1817 art I; 1832 art I; 1869 art I §§ 32).

EVIDENCE FOR QUINTIN MILTON

1. Letter from Mr. Charles A. Rosser, Head Coach, Bailey Magnet High School for Health Related Professions.
2. Lunch Schedule that shows that Petitioner, Mr. Milton, was in the cafeteria first. Also the schedule shows that Peters (203–Art) and Perkins (205–Science) were in the cafeteria at the same time and was not interviewed concerning the charges.
3. Ms. Graves' Written Statement
4. Business Card from Ms. Graves
5. Mrs. Hull's Written Statement
6. Dr. Milton's Notarized Statement
7. Dr. Milton's Statement Concerning Child Support
8. Floor Plan of Capital City Alternative
9. Interrogatories Answered by Jackson Public School/Request for Information for JPS
10. Mr. Milton's Notarized Statement
11. Complaint Policy/Line and Staff Relations—JPS
12. Ms. Bergie Jones's Written Statement
13. Step 3 and 4 Process Forms
14. Letter to JPS Former Board President, Doris Bridgeman written by Mr. Milton
15. Deposition for JPS
16. Mr. Milton's Statement from the Doctor
17. Mrs. Ervin's Written Statement
18. Mr. Louis' Written Statement
19. Mr. Buckley's Letter of Termination
20. Dr. Adams' Letter of Termination
21. Copy of Mr. Milton's Pay Check
22. Defendant's Response to Plaintiff Request for Production of Documents
23. Notice of Appeal
24. Request for IEP

25. Defendant's Motion to Strike Plaintiff's Response and Amended Response and Opposing Affidavits to Defendant' s Motion for Summary Judgment

26. Civil Docket for Case

27. Judgment filed April 19, 1999

NEW EVIDENCE

28. Judgment from Court of Appeal

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